

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
LARRY D. VAUGHT, JUDGE

DIVISION I

CACR06-349

December 6, 2006

COLE MATTHEW JACKS
APPELLANT

APPEAL FROM THE LONOKE
COUNTY CIRCUIT COURT
[CR2004-545]

V.

HON. LANCE LAMAR HANSHAW,
CIRCUIT JUDGE

STATE OF ARKANSAS

APPELLEE

AFFIRMED

Appellant Cole Jacks was convicted of possession of a controlled substance—methamphetamine—and possession of drug paraphernalia. He was sentenced by the trial court, based on the jury’s recommendation, to sixty months’ supervised probation and fined \$5000. He appeals, arguing that there was insufficient evidence to prove that he had actual or constructive possession of the contraband in question. We affirm.

Appellant lived with his grandmother, Lucy Jacks, in Lonoke County. Only appellant and his grandmother lived in the home. At trial, Ms. Jacks testified that—when permitted—she would enter appellant’s room to gather his clothing for laundering. She also testified that appellant’s friends would occasionally visit and enter his room, but that his visitors did not stay long and that her grandson had no visitors in the days before his arrest.

On the afternoon of August 30, 2004, appellant exited his room and began yelling at Ms. Jacks. She testified that she was “scared after a while.” She called the sheriff’s office during the episode and waited at her son’s home while the officers responded to her call. The following morning, Ms. Jacks entered appellant’s room and found the glass part of a lightbulb on the bedroom floor. There was a small hole in the side of the bulb. She testified that she remembered taking an empty barrel of a ball-point pen out of appellant’s blue-jean pocket. She then retrieved the pen barrel and compared it to the hole in the bulb. It was a natural fit. At this point, she became convinced that appellant was doing drugs and recalled that “there [were] always broken lightbulbs” in his room. She then took the items she had recovered to authorities.

After arriving at the sheriff’s office and turning over the contraband she had recovered, she requested a search be conducted of her home. At that time, Ms. Jacks and two officers from the Lonoke County Sheriff’s Office—Lt. Steve Finch and Investigator Michel Stracener—returned to Ms. Jacks’s home. She signed a consent-to-search form and then the officers searched appellant’s bedroom. In appellant’s bedroom officers found digital scales, a small plastic baggie containing methamphetamine, and a broken light bulb with methamphetamine residue. Based on this evidence, a jury found that appellant had possessed a controlled substance and drug paraphernalia.

On appeal, appellant argues that the trial court erred in declining to direct a verdict in his favor because the State did not prove that he possessed any of the contraband submitted

against him at trial. A motion for a directed verdict is a challenge to the sufficiency of the evidence. *Farrelly v. State*, 70 Ark. App. 158, 15 S.W.3d 699 (2000). When reviewing a challenge to the sufficiency of the evidence, we will affirm the conviction if there is substantial evidence to support it, when viewed in the light most favorable to the State. *Id.* Substantial evidence, whether direct or circumstantial, is evidence that is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or another without resort to speculation or conjecture. *Id.*

If a defendant does not have actual, physical possession of the contraband, then constructive possession may be sufficient. *Polk v. State*, 348 Ark. 446, 73 S.W.3d 609 (2002). If the contraband is seized from a jointly occupied residence, some additional factors must be found to link the accused to the contraband. *Gwatney v. State*, 75 Ark. App. 331, 57 S.W.3d 247 (2001). In those instances, the State must also prove that the accused exercised care, control, and management over the contraband and that the accused knew that the matter possessed was contraband. *Id.* This control and knowledge can be inferred from the circumstances, such as the proximity of the contraband to the accused, the fact that it is in plain view, and the ownership of the property where the contraband is found. *Young v. State*, 77 Ark. App. 245, 72 S.W.3d 895 (2002).

Here, although Ms. Jacks owned the home, she testified that appellant was the sole occupant of the bedroom where the contraband was found. She also testified that others rarely entered the room and that when they did enter they were only there briefly. Ms. Jacks

discovered one broken light bulb with a small hole in the side on appellant's bedroom floor. That same day, investigators searched—at Ms. Jacks's request—his bedroom and found additional contraband. Further, Ms. Jacks testified that only she and appellant had been in the home for the past several days before the appellant's arrest. She also acknowledged seeing broken light bulbs in appellant's bedroom on several prior occasions.

This evidence is sufficient (despite its circumstantial nature) to support the conviction. Although there were several credibility determinations that were essential to this case, the jury resolved these against appellant. Because there is sufficient evidence to show that appellant constructively possessed the contraband, the conviction is affirmed.

Affirmed.

GLOVER and CRABTREE, JJ., agree